

SPEECH
OF
HENRY CLAY, OF KENTUCKY,
ON THE
COMPROMISE REPORT.

DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 21, 1850.

The Senate having under consideration the special order, being the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—and Mr. SOULE having addressed the Senate—Mr. CLAY said:

Mr. PRESIDENT: The debate has been conducted in this case with great irregularity. A single proposition was before the Senate, and that of an amendment to a particular section, in relation to the prohibition as to legislation by the Territorial Governments on the subject of African slavery. And, although this was the sole question pending before the Senate, Senators have launched out upon the broad ocean, and embrace, in the course of their arguments, the entire subject. Sir, I feel constrained, in vindication of the acts of the committee of which I was an humble member, to meet some of the arguments of the honorable Senators; and I will begin with the last, who has just sat down. The Senator from Louisiana finds himself unable to concur in the scheme of compromise which has been proposed. Will that Senator condescend to present a contre projet of his own, for the satisfaction and reconciliation of the people of this country? Will he tell us what he wants? Sir, this finding of fault, and, with the aid of a magnifying glass, discovering defects, describing the little animalculæ which move upon the surface of matter, and which are indiscernible to the naked natural eye, is an easy task, and may be practised without any practical benefit or profitable result. It is the duty of the Senator who has just addressed us—it is the duty of all who assail this compromise, to give us their own and a better project; to tell us how they would reconcile the interests of this country and harmonize its distracted parts. And I venture to say that, upon every subject of which the learned Senator has treated, he has done great injustice to the acts of this committee. I do not mean to follow him throughout the whole course of his remarks, but I will take a rapid notice of his objections to the various features of this report.

Sir, he begun, if I am not mistaken, with that which relates to the recovery and restitution of fugitive slaves; and he said, with an air of great dissatisfaction, if not of derision, that the committee had brought back that bill with certain embarrassments instead of improvements. Sir, I beg you to recollect that the

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greatest objections made to the amendment relating to fugitive slaves come from States which are not suffering under the evil of having to recover fugitive slaves. I stated here the other day, what I repeat again now, that my own State is perhaps the State suffering most from this cause, while the State of Louisiana is among those States which suffer from it the least. And yet the honorable Senator from Louisiana, when we are satisfied with these provisions, sees in them objections which are insurmountable. And what are the embarrassments of which he complains? Why, sir, that the slave owner, in the pursuit of his fugitive property, has to carry with him a record! That instead of carrying with him, in pursuit of his slave, at great trouble and expense, witnesses and loose affidavits, he is fortified by an authentic record! That, I say, is an advantage and a protection to the slaveholder—a great advantage; for that record will command respect in the free States, and will give him an advantage which oral testimony or loose affidavits taken before a justice of the peace could never confer. The record, moreover, is a cumulative, not an exclusive remedy, leaving him free to employ the provisions of the act of 1793.

With respect to the other portion of the report which relates to this subject—that of trial by jury—where is the inconvenience of such a trial taking place in the State from which the fugitive has fled? In point of fact it will be no disadvantage, for there will not be one instance in a thousand where the bond to allow a trial by jury at home will incommode the slave owner, since the fugitive will be found to have asked for it as a mere pretext; and when he gets back to his own State he will, beyond all question, abandon that pretext. Sir, I put it to the honorable Senator whether he does not believe that this will be the case; and this, you will recollect, is proposed as a substitute and a satisfaction to the North of that trial by jury which they contend for at a distance from home, and which I have already insisted would amount to a virtual surrender of the constitutional provision. Moreover, it is granting to the slave only the right which he now indisputably possesses, in all the slaveholding States, of resorting to their tribunals of justice to establish his claim to his freedom, if he has one.

Mr. President, I find myself in a peculiar and painful position, in respect to the defence of this report. I find myself assailed by extremists every where; by under currents; by those in high as well as those in low authority; but, believing, as I do, that this measure, and this measure only, will pass, if any does pass, during the present session of Congress, I shall stand up to it, and to this report, against all objections, springing from whatever quarter they may.

Sir, it was but the other day that I found myself reproached at the North for conveying an alleged calumny of their institutions by saying that the trial by jury, in this particular description of case, could not be relied upon as a remedy to the master who had lost his slave; as if I had made any such charge on Northern judges and juries, in ordinary cases, in the way of reproach, or had not applauded the administration of justice both in our State and our Federal courts generally. But I urged that, if, in Massachusetts, you require a Kentuckian, going in pursuit of his slave there, to resort to a trial by jury on the question of freedom or slavery of a fugitive, it would be requisite, in consequence of such an assertion of privilege on the part of the fugitive, that the parties should produce testimony from the State of Kentucky; that you will have to delay the trial from time to time; that there must be a power to grant a new trial, and that a supervisory power would be necessary when you come to a final trial; that distant and foreign courts would be called on to administer the unknown laws of a remote commonwealth; and that, when you sum up the expenses and charges at the end of the case, although the owner may eventually recover his property, the contest to regain it would have cost more than it is worth; that, in short, he might be largely out of pocket, and that he would find he had better never have moved at

all in the matter. That was the argument which I used ; and yet, at the North, I am accused of casting unmerited opprobrium upon the right of trial by jury and the administration of justice ; while at the South, in another and the last extreme, from which I should have expected any thing of the kind, I find that this amendment is objected to as creating embarrassments to the owners of fugitive slaves. Sir, this is something like the old song—

“I do not like thee, Doctor Fell,
The reason why I cannot tell ;
But this I know, and know full well,
I do not like thee, Doctor Fell.”

Such, Mr. President, are their objections to this measure.

Now, let us follow the honorable Senator from Louisiana a little further. One of his great objections was to the clause which prohibits the Territorial Legislatures from passing any law in respect to African slavery within the Territories. Did the honorable Senator know the history of that clause ? Did he know that that clause was moved in the Committee of Thirteen by his own colleague ? Did he know that that clause was voted for by every Southern member on that Committee, except myself, if I am so to be denominated, contrary to what is my usual habit of denominating myself ? Every Southern man on that Committee voted for the clause which is the theme of the Senator's criticism to-day, against my opinion, and that of all the Northern members of that Committee, with, I believe, one solitary exception. And yet, the moment it presents itself, although it comes under Southern auspices, it is objected to !

Again, I ask the honorable Senator from Louisiana, if this is to be rejected, tell us what you want ; put it down in black and white ; put down your project ; compare it with that of the Committee, and let us know the full extent of your demands, and then we shall be able to pass judgment upon them, approving them if we can ; and do not restrict yourselves, in this unstatesmanlike manner, to the mere finding of fault with what is already proposed, without offering a solitary substitute for the measure you oppose.

Now, sir, the honorable Senator raises great objection to this clause of prohibition. He tells us that no police regulations can be made. Either there is slavery there or there is not. If there is no slavery there, then there is no need of any police regulations. If there be slavery there, then the necessary police regulations exist already. And I imagine that they will be found sufficient, as they have already been found in time past ; at all events, from the present time until the time when States shall be formed out of these Territories. Now, let him escape from that dilemma if he can. I repeat it, if there is slavery there, there are police regulations ; if there is no slavery, then none are required.

Sir, the aim of the Committee, in the introduction of that clause—I speak for every member of it, and the honorable mover of it as well as others—was simply to do this : to declare that the Territorial Legislatures should have power neither to admit nor to exclude slavery. That was our purpose—our sole purpose ; and, if the amendment does not accomplish that purpose, would it not be more consistent with a spirit of amity—with that desire of settling these questions, which, I trust and hope, animates the Senator from Louisiana as well as others—would it not have been more conformable to that spirit to have moved an amendment, simply providing against the admission or exclusion of slavery in these territories, leaving them free to establish any police regulations they please, than to have attacked this measure in the manner in which he has done, as if that clause contained some new and dangerous principle to be guarded against ; and as if it did not embody the exact principle for which the South has uniformly contended ?

Again, the honorable Senator objects to the clause interdicting the slave trade in the District of Columbia. He objects to it on two grounds. In the first place,

because the Committee do not affirm in their report that there is no constitutional power in Congress to pass upon the subject of slavery in this District. Now, what is the opinion of the Senator and of the Senate upon this subject? A large portion, probably a majority of the Senate, believes that Congress has the power; another portion believes that Congress has no such power. And how does the honorable Senator expect to arrive at a compromise in which one of the opinions shall be made to triumph over the other? How does he expect that those Senators who think that the power does exist in Congress to abolish slavery in the District of Columbia are to plunge their hands into the inmost recesses of their souls, and drag out that truth which lies there? If he wants a compromise, he must take it without asking Senators, on the one side or on the other, to repudiate their fixed and deliberate opinions; if he does not want a compromise, then let him insist that one class of Senators shall surrender the opinions which they hold to the other class. Sir, I thought that the Committee were on that subject as happy as they could be. The report neither affirms nor denies the power of Congress to abolish slavery in the District of Columbia. It says that it ought not to be done; and he who thinks it ought not to be done upon constitutional grounds, ought to be satisfied; and he who thinks it may be done constitutionally, but who believes that it ought not to be done, from considerations of expediency or kindness, or fraternal regard towards other portions of the country, ought also to be satisfied. Thus, by neither affirming nor denying the power, but by asserting that the power ought not to be exercised, I say it is a compromise with which all ought I think to be perfectly satisfied. Does the honorable Senator expect that my learned friend in my eye, (Mr. Webster,) who has no doubt about the power, will give up that opinion? Does he expect that he will renounce his deliberate, well considered, and well formed opinions, which he has entertained for years? Does the South expect to succeed in any such demand as that? Will the Senator from Louisiana demand it? If he does, he demands that there shall be no compromises, no settlement of the questions which are now agitating the country.

But, sir, the honorable Senator has misconceived the bill for abolishing the slave trade which the committee have reported. This bill is a mere adoption of the law of Maryland. I will here mention a fact which shows how wrong it is to prejudge a thing. An honorable friend of mine, in my eye, has suggested that the object can be accomplished in a certain mode; and I should like to know, from the Senator from Louisiana, whether he thinks it attainable and acceptable in that way or not? The introduction of slaves now into this District, either for sale or for being placed in *depot* for subsequent transportation, arises out of two laws which were passed by Congress itself, one in the year eighteen hundred and two, and the other some years after, permitting it to be done. The Senator to whom I have referred, observed to me some time ago: "Mr. Clay, you can accomplish your object simply by repealing these two laws, and by leaving the state of the law where it was before Congress allowed by law the introduction of slavery into this District." I have not examined the two acts of Congress; but, as I know the Senator to be familiar with the laws of this District and the laws of Maryland, I have no doubt that he is right. Now, if instead of adopting the law of Maryland, which, in other words, is the bill proposed by the committee, we had proposed simply to repeal these two acts of Congress, in virtue of which alone slaves have been introduced into the District for the purpose of being transported to New Orleans and elsewhere, would he think it wrong, would he think it unconstitutional? Would he think it was alarming to the rights of the people of the South for Congress to repeal its own laws? Sir, where there is a disposition to look at things with an impartial and a candid eye, and to look at all the interests of all the parts of the country, and all the

opinions, and all the prejudices, if you will, of our fellow-citizens, we shall be much more likely to arrive at a satisfactory and harmonious result, than by attaching ourselves to a single position, and viewing from that point every thing, and seeking to bring every thing to the standard of our own peculiar opinions, our own bed of Procrustes.

The Senator is mistaken in saying that a resident of the District cannot go out of the District and purchase a slave and bring him here for his own use.

Mr. SOULE. I feel assured that the honorable Senator has misunderstood me. I have merely stated that the effect of this section, if I understand it well, will be to preclude the introduction into the District of any slave for the purpose of being sold, even if it were for the purpose of supplying the necessities of those inhabiting the District; and I know that the honorable Senator will do me the justice, on looking at the section, to admit that such will be its legal effect.

Mr. CLAY. Well, what is the inconvenience of it? A slave cannot be brought within this place for sale and be here sold, but a man who wants a slave here may go to the distance of five miles and purchase one, and bring him here, not for sale, but for his own use. The real amount of inconvenience then, is, that a resident within the District will have to travel five miles to purchase a slave, instead of the slave being brought here to be sold. There is nothing whatever within the bill which prohibits a resident in the District from going out of the District and purchasing a slave for his own use. The only prohibition is, that no slave can be brought into the District or into market for sale, as merchandise, without a forfeiture. But, sir, I repeat, that, by the repeal of the laws under which this is done, all difficulty might have been obviated; and so it will probably be, if the bill be allowed to take its usual course.

No part of this compromise seems to receive the commendation of the Senator from Louisiana, or to afford him any solace or satisfaction. He says that it has been contended by me and by others, that the law of Mexico abolished slavery, and that it does not exist there by law, and is not likely to be introduced there, in point of fact. I cannot renounce that opinion. It is impossible in my nature for me to do so. I cannot disbelieve what I believe. But the honorable Senator has taken up the greater portion of the time in which he has so ably and eloquently addressed us, to prove—what? That that opinion of mine is incorrect. He has gone into an historical account of the abolition of slavery in Mexico; he has gone into the negotiations which led to the conclusion of the treaty of Hidalgo; he has gone behind the negotiations into the instructions given with regard to the proposition of the Mexican commissioners, forbidding the introduction of slavery into the ceded Territories. He has come into the Senate, and traced what has been done in this body, in order to prove that even here, by the negative of a proposition, moved, I believe, by a Senator from Connecticut, there was an implied purpose on the part of Congress to allow slavery, or rather to recognize it there. Now, cannot the Senator be satisfied with his own view? He thinks that slavery is not abolished there. I know that he is much more eminent as a jurist than I ever aspire to be. Why, then is he not satisfied with his own opinion? Will he not, in a spirit of liberal toleration, allow an opposite opinion to be entertained? But the objection to the measure is that, although this proposes to be a settlement of all the questions involved, yet there is one question which is left unsettled, that of the *lex loci* in regard to slavery in these territories, which ought to have been adjusted. Will he tell me how it could be settled? Will he or any body else tell me how it can be settled, otherwise than by the Supreme Court of the United States, whether the law of Mexico did or did not abolish slavery within the limits of those Territories? That is what the committee proposes to do. They

have recommended this plan to the consideration of the Senate, and of the country, as a measure of general compromise, which would settle all the questions that were practicable or possible for legislation to settle. The question which the Senator supposes is left unsettled, can only be settled by the Supreme Court of the United States, and there it is left.

Now, sir, it is a little remarkable that the Senator argued with such great ingenuity, and great earnestness, that, according to the local law of Mexico, slavery was not abolished; that, according to the local law of Mexico, there was a right on the part of the slaveholder to carry his slaves there; that, according to that local law, and the Constitution of the United States, that right exists. If it does, ought not the Senator to be satisfied? Why, I should suppose that it was all that he wanted. He says that the right to carry slaves there exists, and that Congress has no power to legislate on the subject of slavery one way or the other. What more then, does he want? He says that the *lex loci* admits the existence of slavery. Then has not the honorable Senator got precisely what he wants?

Mr. SOULE. The honorable Senator does me injustice. I expressly admitted that slavery was abolished by the Mexican law. I never raised a doubt upon that question. Slavery has been abolished within the limits of Mexico by the constitutional power of Mexico. So far as that goes, therefore, there cannot be the shadow of a doubt in the mind of any one, that if the Mexican law prevails, slavery is already abolished and utterly eradicated.

Mr. CLAY. I understood the Senator to be assailing the opinion which I entertained and expressed.

Mr. SOULE. I certainly did not.

Mr. CLAY. Be that as it may, the honorable Senator contends for that which is equivalent to the non-abolition of slavery by the Mexican law—that the right to carry slaves into the ceded Territories was restored by virtue of the Constitution of the United States.

Mr. SOULE. That is it.

Mr. CLAY. That, then, is what the Senator contended for. Very well, then. If, by the Constitution of the United States, there is a right, on the part of every slaveholder in this country, to carry slaves into the ceded Territories, (which I certainly do not believe or admit,) what more does the Senator want? He talks about the *statu quo*. The *statu quo* is precisely what I should suppose him to want. But, superadded to that, if that be with him, is the Constitution of the United States. And yet he is not satisfied. Does he wish the Constitution to be re-enacted? Can the paramount authority be strengthened by an act of subordinate power? Would he recommend the introduction of the Wilmot proviso into the bill, or a legislative enactment to admit slaves, because the plan of the Committee is silent upon that subject? The Senator is not satisfied with this compromise. Will he tell us now, in so many words, what he would put into an act of Congress to satisfy himself on the subject of slavery? I should be extremely happy to hear it.

Mr. SOULE. I am ready to answer the honorable gentleman at once. I will be satisfied with this section of the bill if the amendment proposed by the Senator from Mississippi prevail. That is all I want. I am willing to abide by that section, provided the amendment proposed by the Senator from Mississippi, and which I have this morning sustained, be adopted. I will also be satisfied with other portions of the bill, if reasonable amendments shall be made.

Mr. CLAY. I am happy to find that there is some possibility that the Senator may yet vote with us. Perhaps I should have been less earnest if I had not despaired of ever obtaining his vote. I really thought that, from the course of his argument, and from the manner in which he treated every proposition contained

in the report, he was a gone case ; that he was hopeless ; that nothing could reconcile him to any scheme that the Committee could propose. I regret, however, to perceive that the Senator, in announcing what would satisfy him, restricts himself to *this section*. But, now, I should like to know what other law the Senator wants upon the subject of slavery than the paramount law of the Constitution of the United States ?

Mr. SOULE. Protection.

Mr. CLAY. The paramount law of the Constitution affords that protection.

Mr. SOULE. I think it does not afford that protection.

Mr. CLAY. Will the Senator be satisfied with striking out the clause ?

Mr. SOULE. I will be satisfied with that clause, provided it be modified as proposed by my friend from Mississippi.

Mr. CLAY. But that amendment the Senator knows I cannot agree to, because it assumes a fact the existence of which I deny. It assumes the fact that slaves are there. I maintain that there are none there, except here and there a body servant that has been carried there by those who are sojourning or travelling through the country.

If the Senator will be satisfied with striking out the clause, I will vote to strike it out, because I voted against putting it in. Or I would consent to its being so modified as to declare that the Territorial Legislature shall neither admit or exclude slavery, which will leave it open to police regulations. If the Senator will be satisfied with that, I am content. But, if the Senator desires, by any indirect means, by any clause which goes beyond its professed object, by any implication which can result from that clause, to assert either that slavery exists now in that country, or that it is lawful to carry it there under the Constitution of the United States, I, for one, cannot agree to it. If the Senator will agree to the modification of the clause, so as to declare that the Territorial Legislature shall pass no laws either to admit or exclude slavery——

Mr. WEBSTER. Respecting the establishment or exclusion of slavery.

Mr. CLAY. Certainly. If the Senator will agree to modify the clause so as to declare that the Territorial Legislature shall pass no laws respecting the establishment or exclusion of slavery, I will go for it with pleasure.

Mr. SOULE. I wish not to misunderstand the honorable Senator, but if I understood his argument, it seems to imply that the amendment proposed by the honorable Senator from Mississippi, assumes the existence of slavery there. I cannot concur with him in that. The amendment assumes that slaves may be there, but it certainly will not carry them there if they be not already there. And if any right exists under the state of things which that asserts, I cannot conceive what serious objections can be entertained on the part of the honorable Senator, to the amendment proposed by the Senator from Mississippi. It only protects whatever rights may exist there. It does not give any right. It only seeks to protect such rights as, under the Constitution of the United States, may now or hereafter exist. For these reasons I shall vote for the amendment. I beg the pardon of the honorable Senator for interrupting him.

Mr. CLAY. Well, sir, if the honorable Senator will be satisfied with such an amendment as I have suggested, and which I understood the other day was satisfactory to most gentlemen on that side of the house—an amendment declaring that the Legislatures of the Territories shall neither establish nor exclude slavery—I am content. Then it will leave open all these questions of right to be settled under the Constitution of the United States, and all those matters of police which are stated to be desirable. But I cannot agree to an amendment which, in point of fact, assumes that slavery has an existence there at this time, and assumes in point of law that, under the Constitution of the United States, there is a right to carry slaves there. I cannot vote for either proposition. I repeat that I

am ready to vote to strike out the clause, to retain the clause, or to modify the clause in the way that I have suggested, which will accomplish all the objects sought for on the other side of the house, if I understand them.

Now, Mr. President, I am not going, at this time of the session, and at this stage of the progress of this measure, to discuss the question of the validity of the laws of Mexico. The question whether the opinions expressed by me and by others, or the opposite ones, be right, can only be decided by the Supreme Court of the United States, upon a proper case brought before that tribunal. We go as far as we can to settle all these questions. We establish governments there and courts there, from which courts appeals may be taken, according to the express provisions of the bill, to the Supreme Court of the United States. A question as to whether or not the Mexican laws prevails in these Territories or whether the Constitution admits slaves to be taken there, can only be decided by that tribunal.

Mr. President, I will not say any thing more with respect to the able, ingenious, and eloquent argument of the Senator from Louisiana; but I will proceed to the other subjects which I propose to discuss. I am not one of those who, either at the commencement of the session or at any time during its progress, have believed that there was any present actual danger to the existence of the Union. But I am one of those who believe that, if this agitation is continued for one or two years longer, no man can foresee the dreadful consequences. A dissolution of the Union, the greatest of all calamities in my opinion which can befall this country, may not in form take place; but next to that is a dissolution of those fraternal and kindred ties that bind us together as one free, christian, and commercial people. In my opinion, the body politic cannot be preserved unless this agitation, this distraction, this exasperation, which is going on between the two sections of the country, shall cease. Unless it do cease, I am afraid that this Union, for all the high and noble purposes for which our fathers formed it, will not be preserved.

Mr. President, I will go so far as to venture to express this opinion, that unless this measure of compromise, not the exact words of the bill—for the committee, I am sure, will agree to any amendments or modifications which will better the measure—but unless some measure of this kind pass, I hazard the prediction that nothing will be done for California, nothing will be done for the Territories, nothing upon the fugitive slave bill, nothing upon the bill which interdicts slavery in this District. Unless some such measure prevail, instead of healing and closing the wounds of the country, instead of stopping the effusion of blood, it will flow in still greater quantities, with still greater danger to the republic. And I repeat, that in my opinion the measures upon your table, with such amendments as it may receive, or some tantamount measure, must pass, or nothing passes upon all the subjects to which the report refers.

Let us look at the subject. If you do not pass this measure, there is a possibility, some gentlemen will say a high probability, that the California bill will not pass. I have no doubt myself but that there are large majorities in both Houses of Congress in favor of the admission of California into the Union; but from causes upon which I shall not dwell, and which are adverted to by me not with pleasure, but with pain, I am afraid that that bill never will pass the two Houses as a measure by itself. What, then, will be the condition of the country? Let us suppose that Congress does nothing; let us suppose that it fails to furnish a remedy for any one of the evils which now afflict the country. Suppose we separate and go home under those mutual feelings of dissatisfaction and discontent which will arise out of the failure of Congress to adjust these questions. I will say nothing of the reproach and opprobrium that would be brought upon us by all christendom. I will say nothing of those

who are looking upon us with anxious solicitude, under the hope that we will fulfil all the expectations and fulfil the high destinies which appertain to one among the greatest of all countries. I will say nothing of that large portion of mankind who are gazing with intense anxiety upon this great experiment in behalf of man's capacity for self-government and man's freedom. I will say nothing of all this. Suppose, then, that after the lapse of six or seven months, during which we were vainly endeavoring to reconcile the distracted and divided parts of the country, we go home full of the feelings of rage and animosity, one section against another? In such a state of feeling can the Republic long continue? Let us suppose, however, that you reject this bill and pass the California bill, and go home in that state of things; what will not the South say? What reproaches will it not level at the North upon this subject? They will say to the North, "You got all you wanted; you got the substitute for the Wilmot proviso; you have got a clause much more potent, much more efficacious than that; you have got the interdiction of slavery into the Constitution of California; you have got all you wanted for the present, and have refused us every thing; you have seized upon California, and hereafter, from time to time, you mean to appropriate the whole of our acquisitions to your exclusive benefit. In that state of feeling, of mutual exasperation and excitement, with a heated press, with heated parties, with heated lecturers, with heated men, how can you expect hereafter to come back to this theatre of strife and contention calm and composed, to settle difficulties which six months of earnest and anxious labor have not enabled you to adjust?"

It is said that nothing has been done for the South in the establishment of these Territorial Governments; nothing in this measure of compromise. What, sir! Is there nothing done for the South when there is a total absence of all Congressional action on the delicate subject of slavery; when Congress remains passive, neither adopting the Wilmot proviso, on the one hand, nor authorizing the introduction of slavery on the other; when every thing is left in *statu quo*? What were the South complaining of all along? The Wilmot proviso—a proviso, which if it be fastened upon this measure, as I trust it may not be, will be the result, I apprehend, of the difficulty of pleasing Southern gentlemen. Their great effort, their sole aim has been for several years to escape from that odious proviso. The proviso is not in the bill. The bill is silent; it is non-active upon the subject of slavery. The bill admits that if slavery is there, there it remains. The bill admits if slavery is not there, there it is not. The bill is neither Southern nor Northern. It is equal; it is fair; it is a compromise, which any man, whether at the North or the South, who is desirous of healing the wounds of his country, may accept without dishonor or disgrace, and go home with the smiles which the learned Senator regretted he could not carry with him to Louisiana. They may go home and say that these vast Territories are left open. If slavery exists there, there it is. If it does not exist there, it is not there. Neither the North nor the South has triumphed; there is perfect reciprocity. The Union only has triumphed. The South has not triumphed by attempting to introduce slavery, which she would not do if she could, because she maintains (although it is not my own individual opinion) that Congress has no right to legislate on the one hand for its introduction, or on the other for its exclusion. Nor has the North been victorious. She may, indeed, and probably will, find her wishes ultimately consummated by the exclusion of slavery from our territorial acquisitions; but if she does, that ought not to be an occasion of complaint with the South, because it will be the result of inevitable causes. The bill has left the field open for both, to be occupied by slavery, if the people, when they are forming States, shall so decide; or to be exclusively devoted to freedom, if, as is probable, they shall so determine.

Now let me call the attention of the Senate to a very painful duty, which I am constrained to perform, and which I shall perform, let it subject me to what misinterpretation it may, here or elsewhere. I mean the duty of contrasting the plan proposed by the Executive of the United States with the plan proposed by the Committee of thirteen. If the Executive has a friend—(I do not mean exactly that, because I believe and wish myself to be a friend of the Executive, feeling most anxious to co-operate him)—but if there be a friend of the Executive who supports his measure *to the exclusion of that of the Committee*, will he stand up here, and meet us face to face upon the question of superiority of the one measure to the other? Let us here, and not in the columns of newspapers, have a fair, full, and manly interchange of argument and opinion. I shall be ready to bear my humble part in such a mental contest. Allow me to premise by assuming, in the first place, that every friend of his country must be anxious that all our difficulties be settled; and that we should once more restore concord and harmony to this country.

Now, what is the plan of the President? I will describe it by a simile, in a manner which cannot be misunderstood. Here are five wounds—one, two, three, four, five—bleeding and threatening the well being, if not the existence of the body politic. What is the plan of the President? Is it to heal all these wounds? No such thing. It is only to heal one of the five, and to leave the other four to bleed more profusely than ever, by the sole admission of California, even if it should produce death itself. I have said that five wounds are open and bleeding. What are they? First, there is California; there are the Territories second; there is the question of the boundary of Texas the third; there is the fugitive slave bill the fourth; and there is the question of the slave trade in the District of Columbia fifth. The President, instead of proposing a plan comprehending all the diseases of the country, looks only at one. His recommendation does not embrace, and he says nothing about the fugitive slave bill or the District bill; but he recommends that the other two subjects, of Territorial Government and Texas boundary, remain and be left untouched, to cure themselves by some law of nature, by the *vis medicatrix naturæ*, or some self-remedy in the success of which I cannot perceive any ground of the least confidence. I have seen with profound surprise and regret, the persistence—for so I am painfully compelled to regard the facts around us—of the Chief Magistrate of the country in his own peculiar plan. I think that, in a spirit of compromise, the President ought to unite with us. He recommends the admission of California. We are willing to admit California. We go with him as far as he goes, and we make its admission compose a part of a general plan of settlement and compromise, which we propose to the consideration of the Senate. In the spirit of compromise which, I trust, does, and which I know ought to, animate both ends of Pennsylvania avenue, we had a right to suppose, when the Committee announced in its report that it was satisfied with his recommendation, so far as it went, but that it did not go, in our respectful judgment, far enough, and that we therefore offered our measure to close up the four remaining wounds—I think, that in a spirit of peace and concord, and of mutual confidence and co-operation, which ought to animate the different departments of the Government, the President, entertaining that constitutional deference to the wisdom of Congress which he has professed, and abstaining, as he has declared he would abstain, from any interference with its free deliberations, ought, without any dissatisfaction, to permit us to consider what is best for our common country. I will go a little further in this comparison, which I make most painfully. After the observations which I addressed to the Senate a week ago, I did hope and trust there would have been a reciprocation from the other end of the avenue, as to the desire to heal, not one wound only, which being healed alone would exasperate and aggravate instead of harmonizing the country, but to

heal them all. I did hope that we should have had some signification, in some form or other, of the Executive contentment and satisfaction with the entire plan of adjustment. But, instead of concurrence with the Committee on the part of the Executive, we have an authentic assurance of his adherence exclusively to his own particular scheme.

Let us look at the condition of these Territories, and I shall endeavor to do what has been done with sufficient precision, to discriminate between non-action or non-intervention in regard to slavery, and non-action as it respects the government of the people, who, by the dispensations of Providence, and the course of events, have come to our hands to be taken care of. To refrain from extending to them the benefit of government, law, order, and protection, is widely different from silence or non-intervention in regard to African slavery.

The recommendation of the President, as I have already said, proposes the simple introduction of California as a State into the Union—a measure which, standing by itself, has excited the strongest symptoms of dissatisfaction in the Southern portions of the confederacy. The recommendation proposes to leave all else untouched and unprovided for. In such an abandonment, what will be the condition of things? The first approximate Territory to California is Utah, and in what condition is that left by the President's message? Without any government at all. Without even the blessing or curse, as you may choose to call it, of a military government. There is no government there, unless such as the necessities of the case have required the Mormons to erect for themselves. Until the common parent shall have spread its power and its authority over them, they have no adequate government.

Then next come to New Mexico, and in what condition does the President's message leave her? With a military government; a military government which, administered as it is proposed to be, is no government. While upon this part of the subject, let me call your attention to what has been said by the Delegate from that Territory, in a feeling address which he has recently published to the people of New Mexico.

Mr. UNDERWOOD, at the request of Mr. CLAY, read the following extracts:

“Why have our rights, which are certainly indisputable, been so long withheld? Why have we been compelled to live under a military domination, so repugnant to freemen, and so opposed to the acknowledged spirit and foundation of this Government? Why, our condition, instead of being improved by the transfer of allegiance, as was promised to us, has been continually getting worse. Why has this Government so long neglected giving you that protection against Indian depredations which was so often promised, both before and since the treaty of cession? Why, the connexion with this Government, which you have been encouraged to look forward to as the beginning of your prosperity and improvement, has had its opening with three years of depredation, miserable misrule, and military despotism.”

Again: “It is useless for me to remind you that you have no other than a military government to administer the civil laws with which you came into the Union, (and under which you and your ancestors have lived for two centuries.) What other Executive have you but the commander of the troops in New Mexico? Does he not absolutely control all the civil establishments of your country? Is there a civil officer but holds his office by commission from the military officer during his will and pleasure? Has he not indeed assumed to order the courts whom to bring to trial, and in every way prescribe their jurisdiction? And when the Secretary of War commands him not to interfere, or prevent the officers from Texas to exercise their commissions in your Territory, can that be called a neutrality? Is it not a virtual abandonment of the government?”

Mr. CLAY. Mr. President, with regard to Utah, there is no government whatever, unless it is such as necessity has prompted the Mormons to institute; and when you come to New Mexico what government have you? A military government, by a lieutenant colonel of the army! A lieutenant colonel, a mere subordinate of the army of the United States, holds the governmental power there, in a time of profound peace. Stand up, Whig who can—stand up, Democrat who

can, and defend the establishment of a military government in this free and glorious Republic, in a time of profound peace ! Sir, we had doubts about the authority of the late President to do this in time of war, and it was cast as a reproach against him. But here, in a time of profound peace, it is proposed, by the highest authority, that this government, that this military government—and by what authority it has continued since peace ensued I know not—should be continued indefinitely, till New Mexico is prepared to come as a State into the Union. And when will that be ? There are now about ten thousand people there, composed of Americans, Spaniards, and Mexicans ; and about 80,000 or 90,000 Indians, civilized, uncivilized, half civilized, and barbarous people ; and when will they be ready to come in as a State ? Sir, I say it under a full sense of the responsibility of my position, that if to-morrow, with such a population, and such a constitution as such a population might make, they were to come here for admission as a State, I for one would not vote for it. It would be ridiculous, it would be farcical, it would bring into contempt the grave matter of forming commonwealths as sovereign members of this glorious Union. She has no population in sufficient numbers morally capable of self-government ; nor will she have for many years to come such a population as will make it proper to admit her as a State. And yet the plan of the President is to leave this military government under this lieutenant colonel in full operation, declaring as he does, in opposition to evidence, that they have a very good government there now.

But what sort of a government does this lieutenant colonel placed over them administer to his subjects ? Why, I suppose one of the greatest and first duties of government is to give protection to the people, to give defence to the Territory which he governs, and to repel invasion from the limits of the country. And how does this military commander, acting as it is said under the authority of the Secretary of War, behave upon the first approach of an invasion ? While commissioners are sent there as pioneers in the work of bringing all that part of New Mexico on this side of the Rio del Norte under the authority of Texas as the territory of Texas, what does this military governor do, or proposes to do, to protect those people and repel invasion, and to protect the domain ? He says he means to be *neutral*, and has instructions from headquarters to be neutral in this contest between the people of Santa Fe or New Mexico and Texas ! The governor of this people, who are opposed to the jurisdiction of Texas, says he means to take no part with those whom he governs, but to leave them to fight it out as well as they can with the power of Texas. What American can say that, under the circumstances, this course is justifiable ; and what will become of the sacred obligations of the treaty of Hidalgo ? Of all the honorable distinctions which characterize man in his social and aggregate, or his individual character, that of good faith, of the honorable fulfilment of obligations, and the observance of contracts in private life, and of treaties in public life, is one which commends itself most to the approbation of enlightened mankind. Here we have a provision in this treaty staring us in the face, requiring us to extend the protection of government to the people of Utah and New Mexico. We are told we may safely—it is not said, I admit, in terms, but it is in effect—we may withdraw from the fulfilment of our obligations, and leave this people to themselves, to work out their own happiness and salvation in such way as they can !

In what circumstances will this country be if Congress adjourns without a settlement of this boundary question, and without establishing Territorial Governments for Utah and New Mexico ? In what condition would the people of New Mexico be east of the Rio del Norte in their conflict with Texas ? Sir, I need not remind you of what every body knows of the settled dislike, the insuperable antipathy existing on the part of the people of New Mexico towards Texas, denouncing and denying her authority, contravening the existence of her laws, and

ready, if they had the power to do it, to resist her claim of jurisdiction to the last extremity. And yet they are to be left to take care of themselves. They have got a government good enough for them!

Mr. President, that is not my conception of my duty as an American legislator. My duty tells me to perform what we have promised to perform; my duty tells me to extend to this people in Utah and New Mexico the benefits of that supreme authority residing in the city of Mexico which they had constituted a part of the republic of Mexico; but which, when they came to us, we promised to extend to them from Washington, on our part. That is my conception of duty, and I will undertake to perform it, if I can. If I cannot do it on account of the Wilmot proviso, or if, as the result of any other obstacle that may be thrown in the way, I cannot accomplish what I deem my duty, I shall stand acquitted in the sight of God and my own conscience; I shall be irreproachable as to any deliberate neglect, even if I fail in the attempt to perform my duty.

I will close this part of what I have to say by grouping, comparing, and contrasting the features of the respective plans of the Executive and the Committee, which I shall be glad if the Reporters will publish in parallel columns:

The President's plan proposes an adjustment of only one of the five subjects which agitate and divide the country.

The President's plan proposes the admission of California as a State.

He proposes non-intervention as to slavery.

But he proposes further non-intervention in the establishment of Territorial Governments; that is to say, that we shall neglect to execute the obligation of the United States in the treaty of Hidalgo—fail to govern those whom we are bound to govern—leave them without the protection of the civil authority of any General Government—leave Utah without any government at all, but that which the Mormons may institute—and leave New Mexico under the military government of a Lieutenant Colonel.

His plan fails to establish the limits of New Mexico east of the Rio Grande, and would expose the people who inhabit it to civil war, already threatened, with Texas.

He proposes no adjustment of the fugitive slave subject.

He proposes no arrangement of the subject of slavery or the slave trade in the District of Columbia.

Thus, of the five subjects of disturbance and agitation—to wit, California, Territorial Governments, the boundary question with Texas, the fugitive bill, and the subject of slavery in the District—

His plan settles but one, leaving the other four unadjusted, to inflame and exasperate the public mind, I fear more than ever.

Under his plan, one party, flushed with success in the admission of California alone, will contend, with new hopes and fresh vigor, for the application of the Wilmot proviso to all the remaining territory; whilst the other party, provoked and chagrined by obtaining no concession whatever, may be urged and animated to extreme and greater lengths than have yet been manifested.

The Committee's plan recommends an amicable settlement of all five of them.

That of the Committee also proposes the admission of California as a State.

They also propose non-intervention as to slavery.

They propose action and intervention by the establishment of civil government for the Territories, in conformity with treaty and constitutional obligations. To give the superintending and controlling power of our General Government, in place of that of Mexico, which they have lost; and to substitute a civil instead of that military government, which declares it will assume an attitude of neutrality in the boundary contest between New Mexico and Texas.

Their's proposes a settlement of the boundary question, and, being settled, a civil war with Texas would be averted.

They offer amendments, which will make the recovery of fugitives more effectual, and at the same time, it is believed, will be generally satisfactory to the North.

They propose to interdict the slave trade in the District, and to leave slavery there undisturbed.

They propose to adjust all five of them on a basis which, it is confidently believed, is just, fair, and honorable, and will be satisfactory to the people of the United States.

They offer the olive branch of peace, harmony, and tranquility.

Under their plan, all questions being settled in a spirit of mutual concession and compromise, there will be general acquiescence, if not satisfaction; and the whole country will enjoy once more the domestic peace, concord, and reconciliation.

Whilst the President's plan is confined to a single measure, leaving the Governments of Utah and New Mexico unprovided for, and the boundary between Texas and New Mexico unsettled, another, and one of the most irritating questions, is left by him, without any recommendation or any provision, to harass or exasperate the country.

He fails to recommend any plan for the settlement of the important and vexatious subject of fugitive slaves. He proposes no plan of settlement of the agitating questions which arise out of this subject. I will repeat, let him who can, stand up here and tell the country, and satisfy his own conscience—when the whole country is calling out for peace, peace, peace; when it is imploring its rulers above and its rulers below to bring once more to this agitated and distracted people some broad and comprehensive scheme of healing, and settle all these questions which agitate this afflicted people—let any man who can, not in the public press, but in the Senate of the United States, stand up and show that the plan which is proposed by Executive authority is such a one as is demanded by the necessities of the case and the condition of the country. I should be glad to hear that man. Ay, Mr. President, I wish I had the mental power commensurate with my fervent wishes for the adjustment of these unhappy questions, commensurate to urge upon you and upon the country forbearance, conciliation, the surrender of extreme opinions, the avoidance of attempting impossibilities.

Sir, I know there is a floating idea in the Southern mind, such as we have heard before, of the necessity of an equilibrium of power between the two sections of the Union—of a balancing authority. However desirable such a state of political arrangement might be, we all know it is utterly impracticable. We all know that the rapid growth and unparalleled progress of the northern portion of this country is such that it is impossible for the South to keep pace with it; and unless the order of all republics shall be reversed, and the majority shall be governed by the minority, the equilibrium is unattainable. But, sir, because there is not and cannot be, and in the nature of things it is impossible that there should be, equilibrium of power between the two sections of this country, does it therefore follow that the southern portion is in any danger with respect to that great institution which exists there, and is cherished with so much solicitude? I think not. I believe not. All apprehensions of danger are founded on flagrant abuses of power; and the possibility of such abuses would prevent all investment of power, since no human power is free from the danger of abuse. But what are the securities of the maintenance of Southern rights connected with that peculiar institution? In the first place, there is that sense of truth, that sense of justice which appertains to enlightened man, to Christian man. In the next place, there is the Constitution of the United States, with the oath which all take to abide by that Constitution. Next, there is a necessity for the concurrence of both branches of Congress before any act of legislation, inflicting a wrong upon that Southern portion of the country, could take place. Then there is the veto of the President of the United States, applicable to any unconstitutional legislation, which might take place in reference to that institution. Last of all, with regard to peaceful and civil remedies, there is the Supreme Court of the United States, ready to pronounce the annulment of any unconstitutional law which might unconstitutionally impair such right; and there is also a sense of responsibility on the part of Senators and Representatives to their constituents. But last, though I trust in God the occasion for its exercise will never arise, there is that right of resort to arms and to make forcible resistance when oppression and tyranny become insupportable.

Nor is this great interest of the South, this institution of slavery, the only one to be affected by the fact that it is in a minority. Is it peculiar to that interest? No, sir. How is it with the fishing interest? How with the navigating inter-

rest? They are both greatly in the minority. How is it with the manufacturing interest? In the minority. How is it with the commercial interest? In the minority. In short, without continuing the enumeration, every interest in this country is in the minority except that great and all-pervading interest of agriculture, which extends from one end of the country to the other. We must be reconciled to the condition which is inevitable. There is all reasonable security against any abuses which may be inflicted in the progress of events, which you can no more arrest than you can seize and hold the beams which are poured forth from that great luminary of the system of which we compose a part, or than you can stop in its onward course the flowing of the Mississippi river, and compel it to turn back to its sources in the Rocky and Alleghany mountains. It is utterly vain to suppose you can acquire that equilibrium of which we have heard so much, between the slaveholding and the non-slaveholding portions of the Union. It is not necessary, I hope; it is not necessary I believe; but, whether it is or not, it is unattainable, by the operation of causes beyond all human or earthly control. And to oppose the immutable and irrevocable laws of population and of Nature is equivalent to a demand for the severance of the Union.

I conclude by repeating that there are five wounds which by the Committee of compromise are proposed to be closed. Sir, I know not what may be said. I know it will be said that agitators will, even after the passage of all these measures, continue to agitate; that the two extremes will still cry out for their respective favorite measures; that the Wilmot proviso, although Territorial Governments will be established, will be pressed, to be added by a supplementary act, or to be incorporated in the constitutions which these Territories may establish. I know it may be urged—indeed, I have heard it stated on this floor, “Pass all your measures, and we will cry out for repeal.” I know something, I think, of the nature of man. I know something of the nature of my own countrymen. I speak also with the authority and with the aid of history. At the time of the memorable Missouri compromise, as at this—and I have been unable to determine in my own mind whether more solicitude and anxiety existed then than now—the whole country was in an uproar, on the one side, for the admission of Missouri, and on the other for her exclusion. Every legislative body throughout the country—I believe there were twenty-four then—had denounced or approved the measure of the admission of Missouri. The measure was finally carried by a small majority; only six in the House of Representatives, where the great struggle, where the long-continued exertion was carried on. And what were the consequences, the tranquilizing consequences which ensued throughout this distracted country? The act was every where received with joy, and exultation, and triumph; and the man who would have dared to interrupt the universal and deep-felt and all-pervading harmony which prevailed throughout the country in consequence of that adjustment, would have stood rebuked, and repudiated, and reproached by the indignant voice of his countrymen. And I venture to say if this measure of compromise goes to the country with all the high sanctions which it may carry—sanctions of both Houses of Congress and of the Executive, and of the great body of the American people—to a country bleeding at every pore, to a country imploring us to settle their difficulties and give once more peace and happiness to them, I venture to say that the agitation will be at an end, though a few may croak and halloo as they please. There are a few miserable men who live upon agitation, men who are never satisfied until they can place themselves at the head of a little clique of agitators, and, fastening them to their tails, go the Democratic party and say, “take me, I am a good Democrat, and I will bring to you this capital which I have, and ensure your success;” or go to the Whig party and say, “take this little balancing power which I possess, and I

will enable your party to triumph over their adversaries." I venture to say they will be hushed into silence by the indignation they will meet every where, in their vain and futile attempt to prolong that agitation which has threatened this country with the most direful calamity which in all the dispensations of God could befall it.

Sir, I am done. I would say much more, but I cannot longer trespass upon your time. I did not expect to have said so much, and my physical powers will not permit me to say more.